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Held at Headquarters, New York,
on Tuesday, 22 October 1991, at 3 p.m.

President: Mr. SHIHABI (Saudi Arabia)

later: Mr. FLORES BERMUDEZ (Honduras)
(Vice-President)

- Return or restitution of cultural property to the countries of origin [23]

  (a) Report of the Secretary-General

  (b) Draft resolution

- Statement by the President

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- Return or restitution of cultural property to the countries of origin [23] (continued)

  (a) Report of the Secretary-General

  (b) Draft resolution

- Election of twenty-nine members of the Governing Council of the United Nations Environment Programme [17 (a)]

- Organization of work

The meeting was called to order at 3.10 p.m.

AGENDA ITEM 23

RETURN OR RESTITUTION OF CULTURAL PROPERTY TO THE COUNTRIES OF ORIGIN

(a) REPORT OF THE SECRETARY-GENERAL (A/46/497)

(b) DRAFT RESOLUTION (A/46/L.11)

The PRESIDENT (interpretation from Arabic): I call on the representative of Zaire, who will introduce the draft resolution.

Mr. BAGBENI ADEITO NZENGEYA (Zaire) (interpretation from French): Please allow me, on behalf of my delegation, to offer you, Sir, our warmest congratulations on your unanimous election to preside over the work of the General Assembly at its forty-sixth session. Your long diplomatic experience and your profound knowledge of our Organization, not to mention the especially important and strategic role played by your country during the Gulf war to preserve international peace and security in the region, assure the success of the work of this session.

The main purpose of my statement is to introduce agenda item 23, entitled "Return or restitution of cultural property to the countries of origin". Included by my delegation in the agenda of the twenty-eighth session of the Assembly in 1973, this item has seen tangible progress on every continent of the world and has led to greater cooperation among States for the implementation of resolution 44/18 of 6 November 1989, as can be seen in the Secretary-General's report (A/46/497) of 30 September 1991.

In this regard, it is my duty to pay tribute to the Secretary-General of the Organization and to the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) for having presented so concisely all the activities carried out to this end by the

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international organizations interested in this matter and by the States Members of our Organization. The report also describes the measures taken by UNESCO towards the implementation of the recommendations adopted by the Intergovernmental Committee at its meetings in Athens from 22 April to 25 April 1991.

I wish also to convey our thanks and gratitude to the new States Parties to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted in Paris on 14 November 1970, for having been so good as to join our cause, thus bringing to 71 the number of States Parties to this Convention. The following five States - Australia, Belize, China, Côte d'Ivoire and Mongolia - have ratified the Convention since 1989.

The universal and ethical character of the restitution of cultural property is founded on a moral principle that can help to strengthen international harmony and cooperation giving it a permanent political, economic and cultural dimension. Indeed, this is not just a matter of returning cultural property or art objects taken, stolen or acquired illegally; rather it is a national cause that is closely linked to peoples' sensitivities and their development of a sense of national identity that creates an awareness of their history.

All countries that have been the object of a systematic plundering of their artworks have suffered an impoverishment of their cultural heritage. For example, in its endeavour in every way possible to recover its works of art after the Second World War France did not wait for the signing of the armistice to recover the magnificent works that had been plundered from the Louvre by Hitler.

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Every people nurtures its artistic values, its culture, its creativity, and everything that contributes to enhancing its environment. When the Summit Meeting of Heads of State or Government of the Organization of African Unity, held on the island of Mauritius in 1976, adopted the Cultural Charter of Africa, the African States reaffirmed the importance of the contribution of culture to the definition of societies in which the peoples of the world wish to live in harmony.

Through the accounts and the historic documents published by UNESCO and other research organizations, it has been agreed that since his earliest origins man, whatever the colour of his skin, has always wondered about his existence, about his raison d'être, about the reason behind and the justification for that existence, even as to its end result, its evolution and the conditions of his coexistence with the nature that has surrounded him; and he has even wondered about the mysterious beyond and, indeed, about metaphysical forces.

Reflecting on all these aspirations and perceptions of his environment, man, in taming nature to make it satisfy his needs, took up the shaping of wood, minerals and any other object that lent itself to the fashioning of things in any form imaginable, in traditional society or in modern society.

Man also depicts himself by depicting - in painting, sculpture, audiovisual means, drawings, masks and music - his environment, his landscapes, his tools and the living species he knows with the aim of showing the vision of nature as he experiences it; it is this vision of the world that gives rise to the culture of a people, including all the cultural and spiritual values that people create and forge throughout its evolution in time and space.

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Every people, accordingly, has created its own culture and its own civilization; every people has created its own values, which are held dear and reflect its genius. Works of art, manuscripts, documents, archives and other cultural and artistic treasures are precisely those cultural values that unquestionably belong to their authors and their peoples; they are the values to which every people attaches great importance and to which every people can lay a legitimate claim to proprietorship regardless of the circumstances.

During the colonial period the States of the third world were subjected not only to domination but also to the systematic plundering of their artworks. The rich countries appropriated the best art pieces, thus culturally impoverishing the subjected or occupied States. Justice, then, lies only in the restitution of this cultural property as a component of the historical process of liberation, not only the political and economic liberation but also the cultural liberation of these countries. This has been Zaire's endeavour since 1973; and it has prompted UNESCO to undertake a vast operation for the return of works of art or cultural property by the countries that have taken them from others.

From the precolonial period up to the present, my country, Zaire, has been noted for its artistic creativity in sculpture, music, painting and masks, to give but a few examples, and these works of art adorn the walls of a good number of museums and are the subject of many exhibitions throughout the world. My country's aim is to see to it that the importance of these cultural symbols is recognized, maintained and given prominence.

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Thus, my delegation endorses every conclusion reached in this connection by United Nations Educational, Scientific and Cultural Organization (UNESCO) and the General Assembly in connection with the legality of the return or restitution of cultural property, including archaeological objects and works of art. For restitution is a noble, human, cultural and moral act.

The tangible, positive results recorded by the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation are encouraging thus far because they have made possible the effective restitution in recent years of cultural property to its countries of origin.

Indeed, the positive action taken by the Intergovernmental Committee of UNESCO shows that: the Greek authorities have agreed to build a new museum in Athens to house the Parthenon Marbles; negotiations are continuing between Turkey and Germany for the return of a sphinx to Turkey; Iran has appealed a decision rendered on 26 December 1988 by the court of first instance in Brussels regarding the restitution to Iran of a collection of archaeological objects from the necropolis of Khurvin; the Philippine authorities have written to the Intergovernmental Committee secretariat informing it of the illicit export to Germany of 300 objects considered to be national treasures, and of their exhibition in a museum at Cologne; the Egyptian authorities have submitted to the secretariat of the Committee a request form for the return or restitution of three very precious manuscripts stolen in Cairo. Reference is made to various cases of the return or restitution of cultural property: a 2,000-year-old burial mantle was returned to Peru in 1989 by the Australian National Gallery at a ceremony in Canberra; the Canadian Government has

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provided considerable assistance for the purchase, from a Monaco saleroom, of a piece of art nouveau furniture that was exported illicitly from Canada - it is now being exhibited at the Royal Ontario Museum at Toronto; two Swiss citizens have recovered a fifteenth-century bronze human head from Benin which was stolen from the Jos Museum in Nigeria - it has been handed over to the Nigerian Ambassador; the District Court of Indianapolis in the United States of America decided on 3 August 1989 in favour of the Republic of Cyprus and the Greek Orthodox Church of Cyprus, which were demanding the return of the famous Kanakaria mosaics that had been stolen from their original site on the island and exported to the United States.

As can be seen, the list of all these acts of restitution constitutes undeniable proof of the importance of the draft resolution that has been submitted for the Assembly's approval.

Because of the good will that has prevailed on all sides and the perseverance of everyone involved, it has been possible to resolve successfully some controversies regarding the return or restitution of cultural property. Clearly, other cases of concern to many States can be satisfactorily settled thanks to the mediation and cooperation of the UNESCO Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation.

In this context, my delegation is pleased to submit for consideration and decision by the General Assembly draft resolution A/46/L.11, sponsored at present by the following countries: Bolivia, Burundi, Chad, Colombia, Côte d'Ivoire, Cyprus, Egypt, Ghana, Greece, Guatemala, Madagascar, Malawi, Mali,

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Mexico, Mongolia, Morocco, Niger, Rwanda, Turkey and Zaire. I think other delegations will wish to join in sponsoring the draft resolution.

Basically, under this draft resolution the Assembly would: reaffirm that the restitution to a country of its objets d'art, monuments, museum pieces, archives, manuscripts, documents and any other cultural or artistic treasures contributes to the strengthening of international cooperation and to the preservation and flowering of universal cultural values through fruitful cooperation between developed and developing countries; recommend that Member States adopt or strengthen the necessary protective legislation with regard to their own heritage and that of other peoples; request Member States to study the possibility of including in permits for excavations a clause requiring archaeologists and palaeontologists to provide the national authorities with photographic documentation of each object brought to light during the excavations immediately after its discovery; invite Member States to continue drawing up, in cooperation with the United Nations Educational, Scientific and Cultural Organization, systematic inventories of cultural property existing in their territory and of their cultural property abroad; also invite Member States engaged in seeking the recovery of cultural and artistic treasures from the sea-bed, in accordance with international law, to facilitate by mutually acceptable conditions the participation of States having a historical and cultural link with those treasures; appeal to Member States to cooperate closely with the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation and to conclude bilateral agreements for this purpose;

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welcome the steady increase in the number of States parties to the Convention; request the Secretary-General, in cooperation with the Director-General of the United Nations Educational, Scientific and Cultural Organization, to submit to the General Assembly at its forty-eighth session a report on the implementation of the present resolution; and decide to include in the provisional agenda of its forty-eighth session the item entitled "Return or restitution of cultural property to the countries of origin".

My delegation hopes that this draft resolution will enjoy the unanimous approval of all delegations.

STATEMENT BY THE PRESIDENT

The PRESIDENT: I should like to make a brief observation. I am sure all members will be interested in it.

This morning when we started the meeting there were only 22 delegations in their seats. I am happy to see that the Assembly is now at full strength. I have appealed to each delegation to assign at least one of its members to be in his seat at the time scheduled for calling the meeting to order. I repeat this appeal.

AGENDA ITEM 23 (continued)

RETURN OR RESTITUTION OF CULTURAL PROPERTY TO THE COUNTRIES OF ORIGIN

(a) REPORT OF THE SECRETARY-GENERAL (A/46/497)

(b) DRAFT RESOLUTION (A/46/L.11)

Mr. BATIOUK (Ukraine) (interpretation from Russian): Recent events have shown that the United Nations is rapidly becoming an effective centre where States can take joint and agreed measures to maintain international peace and security and to develop world cooperation in many areas of human

(Mr. Batiouk, Ukraine)

endeavour. The time is now approaching when people's vital needs, including their cultural and spiritual needs, can now move from the periphery to the centre of attention in the United Nations system. Ukraine welcomes this turn of events.*

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* Mr. Flores Bermudez (Honduras), Vice-President, took the Chair.

(Mr. Batiouk, Ukraine)

The proclamation, on 24 August this year by an extraordinary session of the Ukrainian parliament, of Ukraine's independence was, among other things, a powerful stimulus towards enhancing the interest of its people in its historical and cultural heritage. This process has affected all groups of the population, including the representatives of the national minorities in Ukraine. In the circumstances, the Government and parliament of our republic see their task as one of providing support for the desire of its people to get to know, preserve and propagate its cultural treasures. For the first time in many years, our State is assuming the role of guarantor of the preservation and development of our national culture.

This is needed, the more so because, during the decades of its incorporation in the USSR, the cultures of Ukraine developed in a one-sided manner. The all-encompassing inculcation of a pseudo-internationalist, class approach did enormous damage to the development of the national culture of the peoples of Ukraine. Many of the cultural treasures of the Ukrainian and other peoples were annihilated; others were preserved only because there were individual people who emigrated in time.

The Chairman of the Supreme Council of Ukraine, Mr. Leonid Kravchuk, clearly marking the watershed in our people's affairs, stated in this Assembly on 30 September this year that independent Ukraine would never allow its citizens - Ukrainians, Russians, Jews, Tatars, Poles, Hungarians - to live in fear of persecution because of their natural and understandable love for their own culture, language or nation. He said further that independent and democratic Ukraine called upon all our compatriots in Ukraine and elsewhere to set aside old feuds and old grievances, and, instead, to work together for the noble cause of reviving the language, culture and statehood of its people. (A/46/PV.14, pp. 31-32)

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Not only the followers of every religion, but also the representatives of every people have their own Mecca. The Mecca of all Ukrainians is Ukraine, the banks of the legendary Dnepr. Today, Ukrainians, wherever they may live, can freely realize their natural yearning for their historical homeland, their yearning to satisfy their cultural, religious and spiritual needs. Only Ukraine can be the true centre for the revival of Ukrainian culture; therefore, for example, there is nothing unusual in the fact that, while it began abroad, the international association of Ukrainicists should be primarily based in Ukraine. Therefore, for example, we consider it quite natural that Ukrainians who are citizens of other countries and have preserved the separate national treasures of their peoples often express the desire to return them to the bosom of the active spiritual life of their own people. Of course, Ukraine itself cannot be indifferent to its own cultural heritage, which, at various times, has been either illegally or forcibly removed beyond the bounds of its own territory.

Pursuant to the declaration on State sovereignty adopted on 16 July last year, Ukraine has the right to return to the ownership of the people of Ukraine the national cultural and historical property which is outside the frontiers of the republic. This flows from the natural right of every people to the historical and cultural property of its country created on its own territory. Of course, exhibitions of the best artistic works can and must travel around the world and thus acquaint the peoples of the world with these national treasures. However, we also know that the cultural and historical achievements of Ukraine - literature, painting, whole collections of artists' outputs, the literary heritage of many writers - have, because of the unfortunate past, been scattered throughout the world. They can and must be

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returned to our country. Of course, this is not the work of a single day or even of a single year, but we continue to hope that the national treasures that have left the country will, with the active cooperation of other States, ultimately return to Ukraine.

We welcome the active role of the United Nations and its specialized agencies in the return or restitution of cultural property to their countries of origin. The efforts of the United Nations and the United Nations Educational, Scientific and Cultural Organization (UNESCO) in promoting bilateral and multilateral negotiations for the return or restitution of cultural, artistic or archival property and in compiling descriptions of them, limiting the illegal trade in them and in publicizing them warrant all our support and approval.

Our State affirms its readiness not only to work for the return of property belonging to its people, but also actively to promote the re-establishment of historical justice with regard to the rights of other peoples to their cultural heritages. We are prepared to cooperate on these issues with other countries, and are stepping up our cooperation with our neighbours in this respect. The most recent example of this is the signing of an agreement between Ukraine and the Republic of Hungary on cultural cooperation.

The coordination of this activity in Ukraine will be carried out by the recently established commission on the search for the historical and cultural property of the Ukrainian people. The major task of the commission in the early stages will be to gather together all possible information on the national treasures of Ukraine which are now outside the country so that it can subsequently work for them to be returned.

(Mr. Batiouk, Ukraine)

Of great significance for the work of the commission will be the decisions and recommendations of the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation, and the Ukrainian cultural fund and other public organizations and associations in our country will also have to have their say in this noble cause.

The successful restoration, preservation and protection of a cultural heritage is possible only on the basis of conscientious international cooperation, good will and mutual respect. This is precisely the goal of the draft resolution (A/46/L.11) on this subject which is before the General Assembly.

Mr. SHAHEED (Syrian Arab Republic) (interpretation from Arabic): It is no wonder that my country, Syria, should have a rich archaeological heritage: it was the meeting-place of civilizations by virtue of its geographical position in the heart of the ancient world. The archaeological discoveries that follow upon each other day after day are testimony to the archaeological wealth of Syria, whose ancient treasures stand witness to the fact that the ancient civilizations which developed and flourished in my country have greatly contributed to the development of humanity at large.

(Mr. Shaheed, Syrian Arab Republic)

By way of example, a set of clay models of ship structures which date back to the second half of the fifth millenium B.C. has been discovered in the Khabur region.

There is no doubt that invasions, wars and colonialism have caused the destruction or loss of great quantities of archeological relics of ancient civilizations in different parts of the world. Those very factors have led also to the plunder and transfer of very precious objects from their places of origin to countries which have no title to such objects. This, in turn, has led to the cultural impoverishment of people who are the real owners of such treasures.

The plundering and smuggling of art objects and monuments represent one of the most serious problems that have faced countries such as Syria since the beginning of the twentieth century. This can be attributed to many factors such as the eagerness of museums, scientific and artistic establishments and individual collectors to purchase such objects. This has led to the appearance of hordes of middlemen, traffickers, clandestine excavators as well as groups and agencies that monitor the availability of cultural property archeological finds and even unexcavated treasures.

In the context of this trafficking, countries have come to be classified into three categories. First, exporting countries that, for the most part are developing countries which were the cradle of civilization, such as my own country, Syria, as well as other Arab and foreign States. Secondly, importing countries which, for the most part, are rich nations that have the benefit of highly qualified experts in the evaluation of art and archeological objects and the financial ability to pay for the acquisitions regardless of cost.

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Thirdly, middle countries, which may be called countries of transit, whose circumstances or laws facilitate and allow the illicit passage of smuggled items.

In view of all this, there is a great deal of heightened international concern with regard to the problem of the illicit traffic in archeological objects and the need to curb or even put paid to this activity. Concern with this problem led to the adoption by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) at its ninth session in December 1956, in New Delhi, of general recommendations on the international principles that must govern the field of archeological excavations and which aimed for the most part at organizing archeological digs and prohibiting illicit excavations.

The General Conference of UNESCO at its thirteenth session in November 1964 in Paris agreed on recommendations on the means of prohibiting and preventing the illicit import, export and transfer of ownership of cultural property.

The General Conference of UNESCO adopted at its sixteenth session on 14 November 1970 in Paris the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, which was acceded to by my country, Syria, on 21 May 1975.

We have studied carefully the report of the Secretary-General in document A/46/497 in which he transmitted the report of the Director-General of UNESCO on the efforts made to promote the return or restitution of cultural property to countries of origin. The report pays particular attention to implementing the recommendations made by the Intergovernmental Committee for Promoting the

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Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation. The report describes the action taken on the recommendations adopted by the Intergovernmental Committee at its sixth session and the work done by the Committee at its seventh session.

The report makes it clear that a great deal of work remains to be done due to the fact that the prevalent principle of right with regard to the ownership of cultural property, protects whoever acquires such properties, irrespective of the manner in which the acquisition was obtained.

This is why we deem it necessary to exert efforts at the international level for the adoption of international legislation that forces countries responsible to restitute the archeological treasures to their original owners and to put an end to the plundering of those archeological treasures.

This legislation should be retroactive so that items that were plundered, stolen or given as gifts, would be restituted as well. Such legislation should put an end to the international illicit traffic in historic treasures because the perpetrator would not be able to promote his wares.

In this respect, the archeological experts question the following: if it is inadmissible for a simple picture that is stolen from a magazine to be used in another country, regardless of how simple it is, how is it possible that an archeological item more than 1,000 years old can be stolen and used in a foreign museum under the pretext of acquisition, or even purchase?

If artistic production companies in developed Western countries sue any country that uses, for example, a record or a tape, claiming copyright dues, then why would not a country whose archeological items have been plundered have the same right when it comes to very precious archeological items which belong to one of these nations?

(Mr. Shaheed, Syrian Arab Republic)

Some archeological experts believe that human rights, people's rights, and cultural property rights, that provide very sublime new contents, must include people's rights to maintain their treasures and artistic wealth, which constitute an important element of their culture, and that such concepts must be developed to include the right of these archeological objects to be freed from exile in foreign countries and to be returned to the countries of origin.

The cultural life of any country is an integral part of its daily life and an expression of its national and historic identity. For this reason, we believe that what has happened, and still continues to happen, is not only detrimental to the countries that own the artistic and archeological items, but is detrimental also to all countries, to world culture and to human civilization in general.

It is also detrimental to our reading of history, to its study and chronology. It could also lead to a premeditated fabrication of history. We know very well that some countries try to use these items to support their claims that they are not strangers to the region where they now are.

This is why we believe it to be very necessary that the art objects and artistic treasures be brought back to their places of historic origin, regardless of the reasons for which these properties were transferred to their present places, so that the world's genuine historic features may be restored.

(Mr. Shaheed, Syrian Arab Republic)

Syria, being a party to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, urges the States that have not done so yet to accede to the Convention. The draft resolution submitted in document A/46/L.11 is not new. It was discussed by the General Assembly for the first time at its twenty-eighth session, in 1973. We support the draft resolution, as we supported all previous resolutions relating to this item. We hope that it will be adopted by consensus.

I should like, in this regard, to place on record Syria's keen interest in maintaining its right to recover its cultural property acquired by the Israeli occupation authorities, some of which was recorded in archaeological records contrary to international law. I should like also to place on record that my country, Syria, reserves the right to claim the return of its cultural property which was transferred from its territory, museums and archaeological institutions during the periods of foreign occupation and the mandate. Those items go back many centuries and reflect our national cultural heritage.

Mr. MOHAMMED (Iraq) (interpretation from Arabic): My delegation wishes to affirm that, in addressing this item, we are dealing with an issue that, by its very nature, differs from the other items on the agenda of this Assembly whose business you conduct quite successfully.

This question, from both aspects of ethics and principle, reflects in an exceptional manner the close relationship that binds peoples to their cherished heritage and their cultural achievements over the ages, in addition to the fact that a people's cultural heritage reaffirms important aspects of that people's national identity and continuity. My country's delegation

(Mr. Mohammed, Iraq)

cannot lose sight of the high importance of this question even under the circumstances created by the brutal and immoral siege imposed on the Iraqi people with the aim of starving them. That siege which has been going on for more than a year would appear to make such a question a marginal issue at the very bottom of the scale of priorities.

Such a perception may appear to be logical at first sight. However, if we consider the question in depth and relate it to Iraq's history and its major cultural achievements from time immemorial to the present, we shall become aware of the significance of the immortal relics of the civilization of Mesopotamia and shall realize that the resistance and patience of the Iraqi people in the face of the inhuman siege imposed by the United States and its allies are only part of the pride and dignity of this people who are proud of having contributed effectively to the creation of civilization.

Therefore, our interest in this item at this session, even under the exceptional circumstances which deprive our children of food and medicine, attests to our attachment to our eternal cultural heritage, and highlights our deep belief in the fact that this heritage which embodies the lofty values and principles of humanity is the source of our determination not to surrender or submit and our resolve to live only in dignity and freedom. The war waged on the Iraqi people and the killing of their children in this savage manner, can mean nothing else but the intent to expose future Iraqi generations to extermination. By the same token, it means also the attempted assassination of the history of this noble people, a history which goes back for millennia, to the very roots of humanity's history.

(Mr. Mohammed, Iraq)

Here it is necessary for me to stress one important thing: namely, that this is a question that relates to history. Objectively speaking, therefore, this is a question that relates to the future. It is not only a question of returning works of art or cultural property that were stolen or moved to another country under certain circumstances. Rather, it is a question of a national cause. It concerns the spirit of a people and the process whereby that people develop and create their national identity. Hence, what is at stake here is the historical fountainhead that enriches that people's striving after progress and prosperity.

In order to achieve this, it is necessary to return cultural property and the testimonials of the past to the countries of origin. The international recognition of the importance of this aspect must involve also the distinguishing between works of art or archaeological works, including manuscripts, from other commercial commodities. This distinction should not relate only to the cultural or national value of those objects and treasures, but should include the manner in which they are dealt with. They are not like ordinary goods such as motor cars or spare parts or even agricultural produce and rugs. Those objects form an integral living part of the heritage of the peoples to which the cultural property belongs.

The point I am trying to stress here is the legitimacy of the demands for the restitution of such objects to the countries of origin. It must also be stated that restitution would be a noble measure on the human and cultural levels. It is also a moral measure that would promote international cooperation in other areas and would constitute a positive factor in relations between States.

(Mr. Mohammed, Iraq)

Of course, it is only natural that my country should be interested in a question of this nature which relates to its profound and privileged ties to the past. Iraq's glorious past is too well known even to refer to. Hence, it is only natural that we wish to retrieve the monuments, works of art and rare objects and invaluable manuscripts which were stolen from our country's treasure house of history. Our claim is strong and legitimate.

(Mr. Mohammed, Iraq)

We view what happened in this connection as one of the misdeeds of colonial domination which were inflicted upon countries of prestigious civilizations. That is why the restitution of such property represents, by the same token, an essential phase towards completing decolonization and eliminating the consequences of the colonialist era. In and of itself, this is an important cultural step of great human significance. Of course it also involves rectification and redress of the distortion of history and the moral damage done to the national identity of countries.

Today, it is a well known fact in sociology and in law that historic monuments complement the natural environment in which they were created, and that uprooting them from their environment can only mean the uprooting of a natural and essential component of a nation's very soil and thereby depriving it of its identity and national character. This is an inhuman act that cancels out an essential source of the inspiration and the motivation so necessary to any nation's artistic and literary creativity that symbolize its identity throughout the successive stages of development.

This is compounded by several other factors which arise from the actual existence of the monument or object on its historic site at its place of origin. Those factors include the benefits accruing from tourism, culture, information, development and environment. That is why my country has devoted a great part of its potential to the preservation, development and highlighting of evidence of the human civilization that flourished in Mesopotamia. We have made persistent efforts to rebuild these old cities and restore their characteristic features through modern scientific methods.

One of the great Iraqi traditions at the international level is the annual Festival of Babylon, which is generally attended by a great number of

(Mr. Mohammed, Iraq)

intellectuals, literary personages, archeologists, sociologists and renowned artists who participate in the ritual of veneration of ancient civilizations.

Here I must point out that the brutal aggression by the United States against Iraq that barbarously and vengefully destroyed everything has also left negative traces in this area. But we have confidence in the fact that Iraq, which was the cradle of great civilizations and whose name has been surrounded with brilliance from the very dawn of history, will always retain its integral vigour despite all the thousands of bombs dropped and the inhuman siege aimed at starving its people.

There is no doubt that examination and evaluation of what has been done in relation to this item from 1973 to the present throws into relief two essential factors that must be taken into account.

The first relates to the cultural alienation practised by colonial States against third world countries through dominance of the media. The second relates to the obligation to observe rules of procedure and the recommendations concerning return or restitution of cultural property to their countries of origin and the need to accede to the agreements on this issue, especially the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property.

the legitimacy of the restitution of cultural property is to be linked to a credible form of international cooperation that really works, there is a need to eliminate every discriminatory perception that would limit the right of any State to demand restitution of its cultural property under the pretext that it is not capable of preserving such cultural property.

(Mr. Mohammed, Iraq)

There is no doubt that the peoples who own those objects are the very peoples who created and made that cultural heritage and all its artifacts in the course of their history. They are the very peoples who possess the creative ability to make the cultural achievements embodied in the monuments, art objects and manuscripts that testify to the contribution made by them to mankind's patrimony and its successive civilizations.

That is why we assert here that it would promote international cooperation if the developed States were to make a serious contribution to projects for the building and development of museums in developing countries, train museum personnel and publish archeological studies and reports concerning those museums. This has to be done objectively without any political bias.

Having taken note of the valuable report of UNESCO's Director-General (A/46/497), my country's delegation wishes to reassert its firm support of the efforts of that organization to promote bilateral negotiations between States for the restitution of cultural property to their countries of origin. We also support the efforts of the Intergovernmental Committee created for this purpose and all the initiatives it has taken with a view towards achieving these noble objectives.

My delegation also wishes to reiterate its conviction that it is necessary to strengthen and expand all forms of cooperation between the United Nations and UNESCO, inter alia, in the framework of the International Decade for Cultural Development.

We hope that international efforts will bear positive fruit and that talk of a new international order will not turn out to be just talk whose sole purpose is to serve the colonialist interests of some developed countries

(Mr. Mohammed, Iraq)

while the situation deteriorates in the developing countries. Therefore, my delegation wishes to declare that it supports the draft resolution submitted on this agenda item.

Mr. EXARCHOS (Greece): We are called upon again this year to consider under item 23 of our agenda the most important question of the return or restitution of cultural property to the countries of origin. Greece, as in the past, is a sponsor of the draft resolution which, following the commendable initiative of Zaire, is presented regularly to the Member States. I would recommend that draft resolution A/46/L.11 be adopted by consensus. If this appears not to be possible, I trust that some time in the not very distant future the difficulties that some Member States are confronted with in this draft will be overcome. For I am sure that we all share the view that the illicit removal of unique works of art must cease, that all necessary measures must be taken to curb this illicit traffic in cultural property and that international as well as bilateral cooperation must be strengthened, with the aim of solving pending problems. The question of protecting the cultural property of all nations is even more relevant now than in the past. Respect for each nation's unique character, most prominently expressed by its cultural heritage, would undoubtedly contribute to the strengthening of international cooperation.

It is encouraging that these concerns are shared by the ever-increasing number of countries that are adhering to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. Indeed, six additional Member States have ratified this Convention, bringing the number of States parties to the Convention to 71.

The report of the Secretary-General contained in document A/46/497 outlines the activities undertaken by the United Nations Educational, Scientific and Cultural Organization (UNESCO) to promote the return or restitution of cultural property to their countries of origin. I wish to

(Mr. Exarchos, Greece)

commend the Director-General of UNESCO and the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation for the work they have done in this respect. We were particularly pleased to host the seventh session of that Committee in Athens from 22 to 25 April this year.

International as well as bilateral cooperation is necessary if we are to have any success in our efforts to curb the illicit traffic in cultural property and to protect the cultural heritage of each nation. There can be no doubt that accession to the 1970 Convention, the conclusion of bilateral agreements and the adoption of national legislation provide the indispensable legal framework in this regard. Greece has already signed such bilateral agreements and looks forward to extending such cooperation to other countries. However, the implementation of these provisions requires active cooperation among police forces, customs authorities, museums and others involved. A significant step in this direction would be the establishment of computerized data bases relating to stolen cultural property, as was recommended by the Eighth United Nations Congress on the Prevention of Crime. I have particularly in mind the computerization of the International Criminal Police Organization's (INTERPOL) impressive file of stolen works of art; as mentioned at the seventh session of the Intergovernmental Committee, this computerization will soon be completed. Moreover, the establishment of links between national and international organizations that have already or are about to set up data banks in this field would facilitate the coordination of the activities of all the competent authorities.

I would be remiss if I failed to mention particularly, among the efforts related to the implementation of the 1970 Convention, the preparation of a preliminary draft convention on stolen or illegally exported cultural objects

(Mr. Exarchos, Greece)

drawn up by a study group established by the International Institute for the Unification of Private Law (UNIDROIT). My Government considers this exercise to be complementary to the Convention and aimed at facilitating its implementation, thus rendering the Convention more effective. I hope that a spirit of cooperation will prevail in the meetings of the study group and that the draft will be finalized as soon as possible. May I note that no country is immune from illicit traffic in its cultural property. Therefore, it is in everybody's interest that the draft convention deprive all involved in the illicit traffic in cultural property of the possibility of gaining any benefit from the products of their illegal activities, taking especially into account the interests of the countries with a rich history which have suffered, and continue to suffer, from the increased illicit removal of their cultural heritage. In this context, it would be useful to introduce the element of retroactivity. We consider that this would be fully justified in this case by the very nature of the convention.

Recommendation 1 adopted by the Intergovernmental Committee of UNESCO regarding the restitution of the Panthenon Marbles states:

> "Recommends that the secretariat, with the advice and assistance of the International Council of Museums, seek the opinion of a panel of independent experts of international repute which, after studying conditions in their present location and those specified in the plans for the new Acropolis museum ..., will advise the Committee as to the place where the Parthenon Marbles could best be situated". (A/46/497, appendix I)

It is well known that the Greek Government has focused its efforts on the construction of a new museum in Athens which should, in time, house the Parthenon Marbles. I should like to inform the Assembly that the international

(Mr. Exarchos, Greece)

architectural competition announced in May 1989 by the Ministry of Culture of the Hellenic Republic has been completed. The first prize was awarded to a team of Italian architects who chose the Makryanni site for the museum to be built. Therefore, at this time, all necessary documentation is now available to the secretariat of the Committee. Of course, the substantive aspect of the matter remains in the framework of bilateral negotiations between Greece and the United Kingdom, a country with which we entertain close, friendly relations. The claim for the recovery of the Parthenon Marbles resides in the fact, among others, that they were always considered to be inseparable from the monument, a temple of unique artistic value, the most prominent expression of the Hellenic civilization and a treasure to humanity on its own merits. I should like to commend the British Committee for the Restitution of the Parthenon Marbles for having contributed to a better understanding of the whole problem by the international community.

If protection from the illicit transfer of national art is the object of our concerns, our preoccupation is certainly more profound when such illicit transfer is made under compulsion arising directly or indirectly from the occupation of a country by a foreign Power. I am referring particularly to the case of Cyprus. Although losses through the illicit removal of cultural property at various times prior to the independence of the Republic of Cyprus in 1960 were not negligible, the most damaging blow to the cultural heritage of that island State occurred after the 1974 invasion. It is not my purpose to list all the cases of damaged monuments. I shall mention only the well-known case of the stolen Kanakaria mosaics, which were found in the hands of an Indianapolis dealer. More details on this can be found in the Secretary-General's report.

(Mr. Exarchos, Greece)

The activities of UNESCO and the Intergovernmental Committee have significantly contributed over the years to the enhancement of international cooperation through multilateral and bilateral negotiations or agreements. I note with satisfaction that, as mentioned in the report of the Secretary-General, there have been cases where works of art have been returned to their lawful owners. This trend should be further encouraged so that mistrust may be replaced by recognition of the justice of claims, goodwill and mutual respect. The draft resolution before us serves this purpose and that is why I commend it for approval at this session.

Mr. ELIADES (Cyprus): The richness and variety of the Cypriot cultural heritage is one of the great attributes of my country. As a consequence, it has been, and still is, the focal point of many renowned historians and archaeologists. The subsoil of Cyprus never ceases to reveal further testimony to the millennia-old passage of history from this vital crossroads of three continents. Either by chance discovery or through meticulous archaeological excavation, an impressive diversity of an even more impressive cultural heritage is yielded with frequency.

The wealth of our cultural heritage, however, did not attract only well-meaning historians and archaeologists but also unscrupulous collectors, who, under the guise of historical research or even artistic interest, removed, illegally, priceless cultural treasures of Cyprus to foreign museums and overseas private collections.

For obvious reasons the question of the return or restitution of cultural property to the country of origin is of particular importance to Cyprus, and my delegation is pleased to support the draft resolution introduced by Zaire - document A/46/L.11 - whose constructive recommendations we welcome.

My delegation wishes also to express its satisfaction with the report of the Secretary-General on the return or restitution of cultural property to the countries of origin - document A/46/497 - which contains the Report of the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO) on the implementation of resolution 44/18 of 6 November 1989. Although some progress has been achieved in this respect, we consider that much remains to be done. This, of course, does not detract

(Mr. Eliades, Cyprus)

from a sincere expression of appreciation to UNESCO and its Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation for the work they have done.

It is crucial that we do our utmost, jointly and individually, to protect artifacts in their original shape and context - restoring them, where necessary, to those worlds that created, utilized, loved and found immeasurable meaning in them. In this respect I am particularly pleased to refer to the now-famous Kanakaria mosaics of Cyprus, which are mentioned in paragraph 9 of the report before us.

As members know, the Autocephalous Greek Orthodox Church of Cyprus and the Republic of Cyprus brought legal action in the United States for the recovery of four invaluable Byzantine mosaics, hacked crudely from the apse of the sixth-century church of Panagia Kanakaria, which is situated in the occupied part of Cyprus, and eventually sold to an American art dealer, who brought them to the State of Indiana.

After a lengthy judicial process the United States Court of Appeals, confirming the judgement of the District Court of the Southern District of Indiana, ruled that

> "The mosaics before us are of great intrinsic beauty. They are the virtually unique remnants of an earlier artistic period and should be returned to their homeland and the rightful owner. This is the case not only because the mosaics belong there, but as a reminder that greed and callous disregard for the property, history and culture of others cannot be countenanced by the world community or by this Court".

(Mr. Eliades, Cyprus)

The decision was covered widely in the press as a precedent-setting case for the return of stolen antiquities to the countries of origin. It is not common that a judge's important decision can be, at the same time, an exceptionally eloquent - almost literary - statement.

Considering, therefore, the significance of this decision - not only for Cyprus but also for all those who are striving, against difficult odds, for the return or restitution of cultural property to the countries of origin - permit me, to quote certain passages from it. It opens with a quotation from Lord Byron's poem "The Siege of Corinth", whose verses speak about the ruins of an ancient temple. Chief Judge William Bauer is reminding us, through this poem, what this case is all about - plunder.

The poem's setting is the year 1715, when Ottoman forces, seeking control of the Peloponnese in Greece, invaded Corinth. I quote:

"There is a temple in ruin stands,
Fashion'd by long forgotten hands;
Two or three columns, and many a stone,
Marble and granite, with grass o'ergrown!
Out upon Time! it will leave no more
Of the things to come than the things before!
Out upon Time! who for ever will leave
But enough of the past and the future to grieve
O'er that which hath been and o'er that which must be:
What we have seen, our sons shall see,
Remnants of things that have pass'd away,
Fragments of stone, rear'd by creatures of clay!"

The decision of Chief Judge Bauer continues:

"Byron, writing here of the Turkish invasion of Corinth in 1715, could as well have been describing the many churches and monuments that today lie in ruins on Cyprus, a small war-torn island in the eastern corner of the Mediterranean Sea. In this appeal we consider the fate of

(Mr. Eliades, Cyprus)

several tangible victims of Cyprus's turbulent history: specifically, four Byzantine mosaics created over 1,400 years ago. The district court awarded possession of these extremely valuable mosaics to plaintiff-appellee, the Autocephalous Greek-Orthodox Church of Cyprus. Defendants-appellants, Peg Goldberg and Goldberg & Feldman Fine Arts, Inc. (collectively 'Goldberg'), claim that, in so doing, the court committed various reversible errors. We affirm."

Then there follow 30-odd pages before the conclusion, which says:

"As Byron's poem laments, war can reduce our grandest and most sacred temples to mere 'fragments of stone'. Only the lowest of scoundrels attempt to reap personal gain from this collective loss. Those who plundered the churches and monuments of war-torn Cyprus, hoarded their relics away, and are now smuggling and selling them for large sums are just such blackguards. The Republic of Cyprus, with diligent effort and the help of friends like Dr. True, has been able to locate several of these stolen antiquities; items of vast cultural, religious - and, as this case demonstrates, monetary - value. Among such finds are pieces of the Kanakaria mosaic at issue in this case. Unfortunately, when these mosaics surfaced they were in the hands not of the most guilty parties, but of Peg Goldberg and her gallery. Correctly applying Indiana law, the district court determined that Goldberg must return the mosaics to their rightful owner: the Church of Cyprus. Goldberg's tireless attacks have not established reversible error in the determination, and thus, for the reasons discussed above, the district court's judgment is affirmed."

(Mr. Eliades, Cyprus)

Notwithstanding the tremendously encouraging outcome of this case, my Government remains deeply concerned about the serious losses that the cultural heritage of Cyprus has been suffering since 1974. Numerous centuries-old churches and other national monuments were plundered, looted, or even destroyed. News reports published as recently as two weeks ago refer to the destruction of a church in Pano Dhikomo, while, several months ago, there emerged evidence that a fourteenth-century Byzantine Church - that of Panayia Avgasida - had been demolished.

Let me stress that the Government of Cyprus, the Autocephalus Greek Orthodox Church and other institutions have spared no effort or money in their quest to recover - even by buying them back - whatever Cypriot antiquities could be salvaged. They have undertaken a worldwide campaign, which continues unabated at many levels, for the discovery and return of many significant cultural treasures, and the Kanakaria mosaics are an apt example.

(Mr. Eliades, Cyprus)

Nevertheless, Cyprus is a small country with limited resources. Fortunately, it has had, in varying degrees, the assistance of many organizations and individuals, including UNESCO, the International Council of Museums and Sites, Europa Nostra, the Council of Europe and the foremost museums, curators and scholars throughout the world. The people of Cyprus are indeed indebted to these institutions and individuals who have contributed towards the recovery and protection of our cultural heritage and are continuing to do so.

My Government will continue and intensify its efforts, in close cooperation with other countries and international organizations, to repossess stolen treasures, which belong not only to Cyprus, but also to mankind as a whole. As I said earlier, however, and as I stress again now, it is of primary importance, for the sake of mankind's cultural heritage, that we protect and preserve artefacts in their original form, shape and context, restoring them, where necessary, to those worlds that created, utilized, loved and found them immeasurably meaningful. Countries of origin have a right to keep within national boundaries their important cultural treasures, illustrating their distinguished history.

Mrs. CANEDO PATIÑO (Bolivia) (interpretation from Spanish): The efforts that have been made regarding the item before us - the return or restitution of cultural property to the countries of origin - already have a long history in the United Nations, and I believe it is appropriate to draw attention to some of the principles of the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted on 14 November 1970 by the UNESCO General Conference.

(Mrs. Canedo Patiño, Bolivia)

The States Parties to the Convention recognize that the illicit import, export and transfer of ownership of cultural property is one of the main causes of the impoverishment of the cultural heritage of countries. They undertake to take the necessary measures, consistent with national legislation, to prevent the acquisition of cultural property originating in another State party to the Convention; to prohibit the import of cultural property stolen from museums, monuments or institutions located in the territory of another State party; at the request of the State party of origin, to take appropriate steps to recover and return any such cultural property imported; and not to impose customs duties or other charges upon cultural property returned pursuant to article 7 of the Convention.

I am referring to these main points because several years have passed since this important Convention was adopted. Bolivia notes with deep concern the lack of any adequate juridical and legal basis for dealing with specific cases of the illicit removal of cultural property that really belongs to the people.

My country, Bolivia, is located in the cradle of one of the richest cultures in the Americas, and we Bolivians are proud of our cultural heritage. Our peasant communities possess sacred tapestries and objects that speak of their ancestral origin. Many of these items are even used today in religious and family rites. Bolivia is a vast depositary of the continent's colonial heritage.

In this context, Bolivia has seen its ethnic and folkloric objects, textiles, paintings and silverwork sytematically plundered and, particularly in recent years, foreign merchants have begun to visit communities in search

(Mrs. Canedo Patiño, Bolivia)

of such artefacts, taking advantage of local fairs where they were displayed. In one community alone there were official reports of the loss of 112 ancient tapestries of extraordinary quality, which dated back to the nineteenth century.

The Government of Bolivia is currently involved, inter alia, in two court actions in the United States and in Canada in order to recover objects from its precious cultural heritage.

In the United States, special customs agents confiscated 930 pre-Colombian articles, including textiles, ceramics and silver, that had been tracked down in San Francisco, California on 22 February 1988. The authorities of the United States are now involved in legal proceedings against the responsible parties.

In Halifax, Canada, in July 1988, Canadian customs authorities seized 6,000 Bolivian artefacts. The possibilities of recovering them are very real, owing to the cooperation of the Canadian authorities and its domestic regulations that comply with the cultural heritage laws.

Bolivia is grateful for the cooperation extended by the authorities of those countries. However, in view of the points I have raised, it is still deeply concerned about the high extrabudgetary operational costs involved in the return of cultural property. We have to face the legal expenses of gathering evidence of experts' travel and, in the case of articles seized by the customs authorities, of possession by auction.

We must consider ways of regulating more precisely the legal measures and proceedings concerning what is in reality the offence of plunder, condemned under domestic and international law.

(Mrs. Canedo Patiño, Bolivia)

Moreover, bilateral agreements should be concluded between countries to ensure the protection, recovery and return of unlawfully acquired archaeological, historical and cultural property.

I urge the parties to the Convention to work together in order to preserve our respective cultural heritages, which are not only of historic and ancestral value, but also the intellectual and moral treasures of future generations.

Bolivia has co-sponsored the draft resolution before us, because we are convinced that it represents an important step forward in the implementation of the Convention on the protection of cultural property. We hope it will be adopted by consensus.

Mr. MLOSOWICZ (Poland): Since 1973 the General Assembly of the United Nations has been considering the question of the restitution of works of art to countries that have been victims of appropriation. The Secretary-General, in cooperation with the Director-General of the United Nations Educational, Scientific and Cultural Organization (UNESCO), submitted to the General Assembly at its forty-fourth session a report (A/44/485) on the implementation of resolution 42/7 of 22 October 1987. Through that report, dated 13 September 1989, the Director-General of UNESCO provided an exhaustive study in which he described what had been achieved by the Intergovernmental Committee for Promoting the Return of Cultural Property to its Countries of Origin or its Restitution in Case of Illicit Appropriation.

My country ratified the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, adopted in Paris on 14 November 1970, and the Convention on the Protection of the World's Cultural and Natural Heritage, adopted in Paris on 16 November 1972.

Together with 31 other European States, the United States and Canada, Poland signed the Paris Charter for a New Europe in November 1990. According to its provisions, the signatories

> "recognize the essential contribution of our common European culture and our shared values in overcoming the division of the continent. Therefore, we underline our attachment to creative freedom and to the protection and promotion of our cultural and spiritual heritage, in all its richness and diversity." (A/45/859, annex, p. 17)

Subsequently, the representatives of the States that participated in the Conference on Security and Cooperation in Europe (CSCE) met in Krakow in

(Mr. Wlosowicz, Poland)

May 1991 and adopted by consensus a document of the Krakow Symposium on the Cultural Heritage. The participating States expressed their conviction that they shared common values forged by history and reaffirmed their belief that respect for cultural diversity promoted understanding and tolerance among individuals and groups. They considered that the preservation and protection of regional cultural diversity would contribute to building a democratic, peaceful and united Europe.

It is important to stress that the participating States will endeavour to protect the cultural heritage in compliance with relevant international agreements and their domestic legislation. Poland promotes a policy of taking concerted measures to protect the common cultural heritage from environmental damage.

We are in favour of a future Europe where borders will become more and more transparent but where strong cultural factors of an ethnic, national or religious nature will have an even greater possibility for development.

In accordance with the Paris Charter, the International Centre of Culture was inaugurated in Krakow. The Polish delegation proposed to create its own system of coordination in Europe, for the study and preservation of cultural values. This system would allow us to draw up the long-term European strategy for the protection, preservation and management of these values, with the guidance of highly qualified experts.

Following an agreement reached by Poland, Czechoslovakia and Hungary in Visegrad, the Conference on Central European Cooperation took place in Krakow on 2 June 1991. The task of this Conference was to explore the main dimensions of the cooperation between these three countries. It focused on political security and economic issues, as well as cultural issues.

(Mr. Wlosowicz, Poland)

Bearing in mind that an ever-growing number of countries are adhering to the 1970 Convention, which constitutes a legal instrument for the protection of nations against illicit trade in cultural treasures and objects identified with their civilization, the Polish delegation believes that bilateral negotiations, international cooperation and specific measures to restrict illicit transfers should be promoted.

We strongly condemn illicit traffic in cultural property while just as strongly commending adherence to the principle of the restitution of such objects in cases of their illegal acquisition. We reiterate our doubts, however, as to whether such a principle should be extended beyond that. Poland again appeals its appeal to countries that have not yet acceded to the 1970 Convention to do so without delay.

The PRESIDENT (interpretation from Spanish): I wish to announce that Angola, Costa Rica, Gabon and Peru have joined the list of sponsors of draft resolution A/46/L.11.

The General Assembly will now take a decision on draft resolution A/46/L.11. A recorded vote has been requested.

A recorded vote was taken.

In favour: Afghanistan, Albania, Algeria, Angola, Antigua and Barbuda, Argentina, Australia, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belize, Benin, Bhutan, Bolivia, Botswana, Brazil, Brunei Dar-Salam, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Democratic People's Republic of Korea, Djibouti, Dominica, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, Fiji, Finland, Gabon, Gambia, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Honduras, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Lithuania, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Micronesia (Federated States of), Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, New Zealand, Nicaragua, Nigeria, Norway, Oman, Pakistan, Papua New Guinea, Paraguay, Peru, Philippines, Qatar, Republic of Korea, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tome and Principe, Saudi Arabia, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Vanuatu, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zimbabwe

Against: None

Abstaining: Austria, Belgium, Bulgaria, Czechoslovakia, Denmark, France, Germany, Hungary, Ireland, Israel, Italy, Japan, Liechtenstein, Luxembourg, Netherlands, Panama, Poland, Portugal, Romania, Spain, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America

Draft resolution A/46/L.11 was adopted by 134 votes to none, with 23 abstentions (resolution 46/10).*

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* Subsequently, the delegations of Niger and Panama advised the Secretariat that they had intended to vote in favour.

The PRESIDENT (interpretation from Spanish): I shall now call on those representatives who wish to explain their vote.

May I remind members that, in accordance with General Assembly decision 34/401, statements in explanation of vote should be limited to 10 minutes and should be made by delegations from their seats.

Mr. RICHARDSON (United Kingdom): My delegation abstained in the vote on the draft resolution which the Assembly has just adopted. We are sympathetic to the aspirations of those countries that wish to develop and improve their collections of cultural property, but we cannot accept the principle that cultural property that has been freely and legitimately acquired should be returned to the country of origin. We are always willing to discuss specific cultural property questions bilaterally with other Governments.

My delegation strongly condemns illicit traffic in cultural property and we can support much of the draft resolution which the Assembly has just adopted. But there are no grounds in law on which the British Government can order the return of items that were legitimately acquired by British museums.

Other elements of the resolution also present us with some difficulties. Operative paragraph 2 runs counter to our belief that the great international collections of works of art constitute a unique resource for the benefit of both the public and the international academic community.

Support for operative paragraphs 5 and 6 would imply that my delegation favoured the establishment of a systematic inventory of cultural property in the United Kingdom. As we have explained in previous debates on this subject, this would pose great practical difficulties.

(Mr. Richardson, United Kingdom)

Operative paragraphs 10, 11 and 12 refer to the 1970 Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. Ratification of this Convention would present considerable problems for my Government. But, as the Assembly will know, many of the underlying requirements of the Convention are already part of our own approach to this problem. The British Museum and Art Trade interests have subscribed to two voluntary codes of practice, in 1977 and 1984, on the handling of items of dubious provenance, which uphold the spirit of the 1970 Convention. We take these codes seriously and investigate any reports of their contravention. In addition the Metropolitan Police Art and Antiques Squad has recently been reconstituted and maintains close links with the International Criminal Police Organization (INTERPOL).

The United Kingdom views the draft International Institute for the Unification of Private Law (UNIDROIT) convention on the restitution of stolen or illegally exported cultural property as an innovative attempt to address the problems raised by the UNESCO Convention. The United Kingdom participated in the meeting of national government experts held in Rome in May to consider the convention and welcomes UNIDROIT's intention to work further on the draft convention in the light of the conclusions of that meeting.

In conclusion, I should comment briefly on the remarks made by the Permanent Representative of Greece about the works of art known as the Elgin Marbles. These works of art were acquired legally in the early years of the nineteenth century. We cannot accept the principle of the return of objects to their country of origin except in the case of illegal acquisition. But we remain ready to discuss the matter further with the Government of Greece on a

(Mr. Richardson, United Kingdom)

bilateral basis, in the spirit of the close and friendly relations to which the Permanent Representative of Greece rightly referred a short while ago.

Mrs. ROCKEFELLER (United States of America): The United States has played a constructive role on this issue since it first arose in the United Nations. To that end the United States became a party in 1983 to the Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property, and we actively support its provisions. Nevertheless, we abstained on draft resolution A/46/L.11 because this text keeps open the possibility of retroactive application, which we oppose, and because it addresses restitution to Governments only.

As a party to the Convention, the United States has responded favourably to requests for assistance made to it under article 9. Five States parties - Canada, Bolivia, El Salvador, Guatemala and Peru - have asked the United States to ban the importation of endangered artifacts. In response, the United States has imposed emergency import bans on certain pre-Colombian artifacts from El Salvador, Peru and Guatemala and on antique textiles from Bolivia. Canada's request is under consideration. It is our understanding that the United States is the only State party that has taken action under article 9 to assist another State party.

Furthermore, the United States has been sympathetic when approached by victimized countries asking it to assist in the recovery of cultural property. For example, it has conscientiously implemented the provisions on illicit transfer of cultural property. My Government has established controls prohibiting entry of certain archaeological materials from Peru, El Salvador,

(Mrs. Rockefeller, United States)

Bolivia and Guatemala; the violation of such controls subjects the materials to forfeiture and return to their countries of origin.

In short, we support the Convention but we believe this resolution inappropriately leaves open the possibility of retroactive application. That is why we abstained.

The PRESIDENT (interpretation from Spanish): We have just heard the last speaker in explanation of vote. I shall now call on representatives who wish to speak in exercise of the right of reply.

May I remind members that, in accordance with General Assembly decision 34/401, statements in exercise of the right of reply are limited to ten minutes for the first intervention and to five minutes for the second and should be made by delegations from their seats.

Mr. KORUTURK (Turkey): I am sorry I have had to ask to speak, but I must make a few comments on the statement of the representative of the Greek Cypriots, which contained misleading information about the Turkish Republic of Northern Cyprus.

My delegation is really disappointed to see that despite all efforts deployed over the past year to bring the two sides in Cyprus into negotiating range the Greek Cypriots are still unable to give up the habit of trying to discredit their Turkish Cypriot counterparts. We find it very difficult to see how the Greek Cypriots will establish a bizonal, bicommunal federal State with the Turkish Cypriots, as envisaged most recently in Security Council resolution 716 (1991), when they cannot stop themselves from attacking their future partners under any pretext. We would expect them to comply with

(Mr. Koruturk, Turkey)

the appeal that the Secretary-General made in his latest report on his mission of good offices in Cyprus. He said:

> "I must again appeal to both sides to refrain from making statements or taking actions that are counter-productive and only make our effort to find a solution more difficult". (S/23121, p. 5)

As to the Greek Cypriot allegations concerning the so-called destruction and pillaging of the art treasures and historical monuments in northern Cyprus, suffice it to say that these allegations have been categorically refuted by the United Nations Educational, Scientific and Cultural Organization (UNESCO) and other interested international bodies. In the past my delegation has had occasion to refer here in the General Assembly, in reply to Greek Cypriot allegations, to a number of the reports of these bodies. I shall not enter into the details of these studies once again. I shall simply refer to the report entitled "Cultural Heritage of Cyprus" prepared by Mr. Van Der Werff, a Member of Parliament from the Netherlands, and Mr. Robin Cormack, a consultant expert who visited the island in June 1989 on behalf of the Parliamentary Assembly of the Council of Europe. The report, which was published on 2 July 1989, was confirmed by the Committee of Culture and Education of the Parliamentary Assembly of the Council of Europe. I shall confine myself to quoting the concluding remarks of that report:

> "The threats to the cultural heritage in the north and south of Cyprus are in the main the same ones: climate, the risk of earthquake, the need to prevent the deterioration of the fabric and decoration of old buildings, the pressures of tourism and development and the threat of international art thieves."

Mr. ELIADES (Cyprus): I wish first to clarify that I am not the Greek Cypriot representative: I represent the Republic of Cyprus in this body.

I am really surprised and puzzled that the representative of Turkey troubled to waste the time of this body in complaining that I made allegations against the Turkish Cypriots. If he had listened attentively to what I said he would have taken note that I went to a lot of trouble not to mention Turkish invasion, Turkish occupation or even Turkish Cypriots.

(Mr. Eliades, Cyprus)

The whole world knows that Cyprus was invaded by Turkey in 1974; the whole world knows that Turkey still occupies almost 40 per cent of Cyprus to this day, in flagrant violation of numerous United Nations resolutions.

To the invasion of Cyprus by Turkey and the continuing occupation of almost 40 per cent of it - its northern part - by Turkish armed forces, the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict is also applicable. The Convention prohibits the destruction or seizure of cultural property during armed conflicts and during periods of belligerent occupation. In this case Turkey cannot evade the sole and heavy responsibility for the plunder, looting and destruction of cultural property in Cyprus by shifting the onus onto the so-called "Turkish Republic of Northern Cyprus", a regime of Turkey's own making condemned by Security Council resolutions 541 (1983) and 550 (1984).

Maintaining the occupation of northern Cyprus is costing Turkey - in the words of President Turkut Ozal - the heavy burden of $400 million per year. Let me remind the representative of Turkey that, only 11 days ago, the Security Council adopted yet another resolution on Cyprus (resolution 716 (1991)), operative paragraph 2 of which reaffirms all the Security Council's previous resolutions on Cyprus, including resolution 541 (1983), including resolution 550 (1984), which demand that nobody recognize the pseudo-State in Cyprus and that they break off relations with it. Turkey maintains an ambassador in occupied Cyprus. Turkey maintains almost 40,000 troops in the northern part of my country.

The PRESIDENT (interpretation from Spanish): I now call on the representative of Turkey, who wishes to speak a second time in exercise of the right of reply. The intervention is limited to five minutes.

Mr. KORUTURK (Turkey): I will confine myself to stating that, instead of distorting the situation in Cyprus, the Greek Cypriot representative should read, attentively, Security Council resolutions 649 (1990) and 716 (1991).

The PRESIDENT (interpretation from Spanish): I now call on the representative of Cyprus, who wishes to speak a second time in exercise of the right of reply. The intervention is limited to five minutes.

Mr. ELIADES (Cyprus): I trespass once again on your patience to point out that my English is quite good and that I understand full well the meaning of Security Council resolutions 649 (1990) and 716 (1991). I repeat: the last resolution, resolution 716 (1991), reaffirms all earlier Security Council resolutions on Cyprus, and these demand the withdrawal of all foreign troops from Cyprus. I call on Turkey to explain why they are still violating earlier resolutions of the United Nations, earlier resolutions of the Security Council, which are mandatory; and I challenge them to explain their position on resolutions 541 (1983) and 550 (1984).

Turkey is directly responsible for the destruction of the cultural property of Cyprus because the northern part of Cyprus is kept under its military occupation, and the onus of responsibility remains on Turkey: it cannot be shifted by any tactics or words.

The PRESIDENT (interpretation from Spanish): We have thus concluded our consideration of agenda item 23.

ITEM 17 (a)

ELECTION OF TWENTY-NINE MEMBERS OF THE GOVERNING COUNCIL OF THE UNITED NATIONS ENVIRONMENT PROGRAMME

The PRESIDENT (interpretation from Spanish): Pursuant to General Assembly decision 43/406, the Assembly will now proceed to the election of 29 members of the Governing Council of the United Nations Environment Programme to replace the 29 members whose term of office expires on 31 December 1991.

The 29 outgoing members are: Bangladesh, Botswana, Bulgaria, Canada, Chile, Colombia, Costa Rica, Côte d'Ivoire, Czechoslovakia, Finland, Guyana, India, Jordan, Kenya, the Libyan Arab Jamahiriya, Malta, Mexico, the Netherlands, Oman, Pakistan, Poland, Rwanda, Saudi Arabia, Sri Lanka, the Sudan, Togo, Turkey, Uganda and the United Kingdom of Great Britain and Northern Ireland. Those States are eligible for immediate re-election.

I should like to remind members that, after 1 January 1992, the following States will still be members of the Governing Council: Argentina, Austria, Barbados, Brazil, Burundi, China, France, Gabon, the Gambia, Germany, Indonesia, Japan, Kuwait, Lesotho, Mauritius, New Zealand, Norway, Peru, the Philippines, Spain, Thailand, Tunisia, Ukraine, the Union of Soviet Socialist Republics, the United States of America, Venezuela, Yugoslavia, Zaire and Zimbabwe. Those 29 States will therefore not be eligible in this election.

In accordance with rule 92 of the rules of procedure, the election shall be held by secret ballot and there shall be no nominations. May I, however, recall paragraph 16 of decision 34/401, whereby the practice of dispensing with the secret ballot for elections to subsidiary organs when the number of candidates corresponds to the number of seats to be filled should become standard, unless a delegation specifically requests a vote on a given election.

(The President)

In the absence of such a request, may I take it that the Assembly decides to proceed to the election on that basis?

It was so decided.

The PRESIDENT (interpretation from Spanish): I shall now read out the names of the candidates endorsed by the regional groups: for eight seats from the African States, Botswana, Cameroon, Congo, Côte d'Ivoire, Kenya, Nigeria, Rwanda and Senegal; for seven seats from the Asian States, Bangladesh, Bhutan, India, the Islamic Republic of Iran, Malaysia, Pakistan and Sri Lanka; for three seats from the Eastern European States, Czechoslovakia, Poland and Romania; and for five seats from the Latin American and Caribbean States, Chile, Colombia, Guyana, Mexico and Uruguay.

With regard to the six seats from the Western European and other States, I call upon the Chairman of the Group of Western European and Other States, the representative of Norway.

Mr. FJAERTOFT (Norway): On behalf of the Group of Western European and Other States, allow me to state that it has not been possible to reach agreement within the Group on the distribution of seats. Therefore, we present the following seven candidates for the six vacancies: Australia, Denmark, Italy, the Netherlands, Portugal, Turkey and the United Kingdom.

The PRESIDENT (interpretation from Spanish): Since the number of candidates endorsed by the Group of African States, the Group of Asian States, the Group of Eastern European States and the Latin American and Caribbean Group corresponds to the number of seats to be filled in each region, I declare those candidates elected for a four-year team beginning on 1 January 1992.

Regarding the Group of Western European and Other States, the number of candidates exceeds the number of vacancies allocated to those regions. Therefore, the Assembly will now proceed to a vote by secret ballot to elect six members from the Group of Western European and other States.

Ballot papers will now be distributed. I would request members of the Assembly to use only those ballot papers and to write on them the names of the States for which they wish to vote. The ballot papers indicate the number of members to be elected. Ballot papers containing more than that number will be declared invalid. Names of Member States on a ballot paper which are outside that region shall not be counted at all.

I should like to inform the Assembly that the number of candidates not exceeding the number of seats to be filled, receiving the greatest number of votes and not less than the majority required, will be declared elected. In

(The President)

the case of a tie vote for a remaining seat, there will be a restricted ballot limited to those candidates which have obtained an equal number of votes.

May I take it that the General Assembly agrees to that procedure?

It was so decided.

The candidates for the six seats from among Western European and Other States are the following seven countries: Australia, Denmark, Italy, Netherlands, Portugal, Turkey and the United Kingdom.

At the invitation of the President, Mr. Amr (Egypt), Ms. Tikanvaara (Finland), Mr. Nagy (Hungary), Miss Arguillas (Philippines) and Ms. Halfhuid (Suriname) acted as tellers.

A vote was taken by secret ballot.

The meeting was suspended at 5.25 p.m. and resumed at 6.15 p.m.

The PRESIDENT (interpretation from Spanish): The result of the voting is as follows:

Number of ballot papers:	161
Number of invalid ballots:	0
Number of valid ballots:	161
Abstentions:	0
Number of members voting:	161
Required majority:	81
Number of votes obtained:	
Italy	147
Portugal	146
Australia	142
Netherlands	139
Denmark	136
United Kingdom of Great Britain and Northern Ireland	127
Turkey	87
Belgium	2
Canada	1
Finland	1
Greece	1
Malta	1

The following countries, having obtained the required majority, were elected members of the Governing Council of the United Nations Environment Programme for a period of four years beginning on 1 January 1992: Australia, Denmark, Italy, the Netherlands, Portugal and the United Kingdom of Great Britain and Northern Ireland.

The PRESIDENT (interpretation from Spanish): I wish to congratulate the States that have been elected members of the Governing Council of the United Nations Environment Programme and I thank the tellers for their assistance in this election.

That concludes our consideration of agenda item 17 (a).

ORGANIZATION OF WORK

The PRESIDENT (interpretation from Spanish): At the request of a number of delegations, the votes on draft resolution A/46/L.10 and the amendment by Iraq (A/46/L.12), concerning the report of the International Atomic Energy Agency, which had been postponed until tomorrow afternoon, will now be taken on 13 November 1991, in the morning, as the second agenda item.

The meeting rose at 6.20 p.m.